

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

VALARIE WHITNER, VINCENT BLOUNT, and	)	
MILDRED BRYANT, individually and on behalf	)	
of all others similarly situated,	)	
	)	
Plaintiffs,	)	
v.	)	Civil Case No. <u>4:15-cv-01655-RWS</u>
	)	
CITY OF PAGEDALE, a Missouri municipal	)	
corporation,	)	
	)	
Defendant.	)	

---

**MOTION TO VACATE AMENDED CASE MANAGEMENT ORDER**

---

Counsel for Plaintiffs, with the consent of Defendant’s counsel, respectfully submits this Motion to Vacate this Court’s November 4, 2016, Amended Case Management Order for good cause and for the following reasons:

1. This Court entered its Amended Case Management Order, ECF No. 71, on November 4, 2016.
2. The Amended Case Management Order set the following schedule for class certification deadlines:
  - a. “The parties shall complete all discovery relating to class certification issues no later than February 17, 2017.”
  - b. “Plaintiffs’ brief in support of class certification must be filed no later than March 10, 2017. Opposition briefs shall be filed no later than March 31, 2017, and any reply brief may be filed no later than April 10, 2017.”

- c. “This action is set for a Class Certification Hearing on May 18, 2017 at 10:00 a.m. in Courtroom 16-South. This is an evidentiary hearing, and the parties shall present all evidence they deem necessary in support of their respective positions at this hearing.”

ECF No. 71, at 1-2.

3. On the morning of Tuesday, February 7, 2017, and prior to his scheduled deposition, counsel for Plaintiffs were informed that Plaintiff Blount had been hospitalized with a bacterial infection.

4. Plaintiff Blount is currently still hospitalized. It is unclear when he may be released and what his projected recovery timeline may be.

5. Plaintiff Blount’s hospitalization and medication render him unfit for a deposition prior to the current discovery cutoff and otherwise unable to assist in discovery.

6. Plaintiff Blount’s deposition is necessary for briefing of class certification issues.

7. This Court’s current discovery deadline is February 17.

8. Because Plaintiff Blount cannot be produced for his deposition before this Court’s upcoming class-certification discovery deadline, Plaintiffs counsel respectfully requests that the Court vacate the class certification Case Management Order. Defendant’s attorney has been consulted and agrees that the Court should vacate the current class certification deadlines under these circumstances.

9. Because Plaintiff Blount’s precise recovery timeline is unclear, Plaintiffs’ counsel intends to report the status of this to the Court periodically and initiate the entry of an Amended Class Certification Schedule as soon as reasonably possible once Plaintiff Blount’s hospitalization is complete and he is sufficiently recovered to participate in these proceedings. Defendant’s counsel has been consulted and consents to Plaintiffs’ requests and suggestions in this regard.

WHEREFORE, for these reasons Plaintiffs respectfully request that this Court vacate the November 4, 2016, Amended Case Management Order and that an Amended Class Certification Case Management Order be entered when Plaintiff Blount's hospitalization is finished and he is able to participate in these proceedings.

DATED this 9<sup>th</sup> day of February, 2017.

Respectfully submitted,

**INSTITUTE FOR JUSTICE**

/s/ William R. Maurer

William R. Maurer\*, WSBA No. 25451  
10500 NE 8<sup>th</sup> Street, Suite 1760  
Bellevue, WA 98004  
Telephone: (425) 646-9300  
Fax: (425) 990-6500  
E-mail: wmaurer@ij.org

Joshua A. House\*, CA No. 284856  
901 N. Glebe Rd., Suite 900  
Arlington, VA 22203  
Telephone: (703) 682-9320  
Fax: (703) 682-9321  
E-mail: jhouse@ij.org

*\*Admitted Pro Hac Vice*

*Attorneys for Plaintiffs*

**BRYAN CAVE LLP**

/s/ Michael Lanahan

Michael Lanahan (MO Bar No. 67487)  
J. Bennett Clark (MO Bar No. 30907)  
One Metropolitan Square  
211 North Broadway, Suite 3600  
St. Louis, MO 63102-2750  
Telephone: (314) 259-2235  
Fax: (314) 259-2020  
E-mail: michael.lanahan@bryancave.com

Telephone: (314) 259-2418  
Fax: (314) 552-8418  
E-mail: ben.clark@bryancave.com

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 9th day of February, 2017, the foregoing ***MOTION TO VACATE AMENDED CASE MANAGEMENT ORDER*** was filed using the courts ECF/CM E-Filing system, and was served via operation of the courts electronic filing system on the following:

**BEHR, McCARTER & POTTER, P.C.**  
Timothy J. Reichardt  
Ryan M. Hyde  
7777 Bonhomme Avenue, Suite 1400  
St. Louis, MO 63105  
Telephone: (314) 862-3800  
Fax: (314) 862-3953  
Email: treichardt@bmplaw.com  
Email: atangaro@bmplaw.com  
Email: rhyde@bmplaw.com

*Attorneys for Defendant City of Pagedale*

**INSTITUTE FOR JUSTICE**

/s/ William R. Maurer  
William R. Maurer (WSBA No. 25451)\*

*\*Admitted Pro Hac Vice*

*Attorney for Plaintiffs*